

**Notice of Allowability**

Application No.

10/501,945

Examiner

Elias Desta

Applicant(s)

LILLY, BRENDON

Art Unit

2857

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to after final amendment filed on 4/27/2007.
2. ☒ The allowed claim(s) is/are 1-5, 7-20 and 22-25.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Detailed Action*

*Response to Amendment*

1. Applicant's arguments, see amendment, filed April 27, 2007, with respect to claims 1-5 and 7-15, have been fully considered and accepted. The rejection of claims 1-5 and 7-15 has been withdrawn. The Examiner affirms the allowance of claims 16-20 and 22-25 and acknowledges the cancellation of claims 6 and 21. No outstanding rejection or objection remains.

*Allowance*

2. Claims 1-5, 7-20 and 22-25 are allowed. The following is an examiner's statement of reasons for allowance:

In reference to claims 1 and 16: *Remboski et al.* (US. PAP 2002/0116156, hereon Remboski) teaches a system for monitoring the performance of at least one machine operator comprising: a measuring device for measuring at least one machine parameter during the operation of the machine by the operator, the machine operator related to the operation of the machine by the operator (see *Remboski*, paragraph 62); a means for measuring at least one machine parameter (see *Remboski*, Fig. 4, steps 402-408); and a module for calculating at least one performance indicator for the machine operator from the parameter (see *Remboski*, Fig. 4, step 410). This is the current state of the art.

In reference to claims 1 and 16: The primary reason for the allowance of claims 1-5 and 7-20 and 22-25 is the inclusion of the limitation "segmenting at least one machine parameter that is

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a dependent machine parameter into segments where at least one dependent machine parameter exists, the range of each segment constituting resolution”; “generating at least one performance indicator distribution from measurements of the at least one machine parameter, said at least one performance indicator distribution comprising a range of values for a performance indicator derived from said at least one machine parameter”; and “calculating at least one performance indicator for at least one machine operator from the at least one performance indicator distribution”. It is this limitation, as recited in combination with the dependent claims which is found in each of the claims but is not found, taught or suggested in the prior art of record, that makes these claims allowable over the prior art.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

### *Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elias Desta whose telephone number is (571)-272-2214. The examiner can normally be reached on M-Th (8:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, John E. Barlow can be reached on (571)-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

- May 4, 2007

- E.D

  
John Barlow  
Supervisory Patent Examiner  
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